

REMARKS

Applicants respectfully acknowledge Examiner's teleconference with their representative on March 24, 2009, where Applicants elected to prosecute invention I (claims 1-17). Claims 18-28 stand withdrawn as a result, leaving claims 1-17 pending. All pending claims stand rejected over cited art.

Applicants hereby cancel claims 18-28, but reserve the right to rejoin the process claims upon allowance of the pending apparatus claims. Claims 1-17 have been amended to clarify the claims. No new matter has been added.

Rejection under 35 USC 102

Claims 1-3, 5, 6-11 and 13-14 are rejected under section 102(b) over Schmitz (US 5,620,421). Applicants traverse.

The Schmitz reference discloses a hollow needle but not an apparatus that concurrently injects fluid during insertion of the needle. In support, Applicants point to col.6, ln. 61-66 in Schmitz, which provides that "side opening 80 in the needle 72 . . . [has] no passageway for medicament to pass through to the opened from tip of the needle until the needle has traveled a certain distance." As such, the apparatus in Schmitz is unable to deliver concurrently during insertion. Anticipation under section 102 requires the prior art to read on all elements of the claimed invention – Schmitz fails to do so.

In accordance, this rejection should be withdrawn.

Rejection under 35 USC 103

Various claims stand rejected over Schmitz in view of either Dalamagas (US 5,271,413) or Klein (US 4,877,134). Applicants traverse.

Referring to the argument related to section 102, above, Applicants submit that the lacking disclosure in Schmitz is also absent in the secondary references. As such, either alone or in combination, the cited references fail to render the current claimed invention obvious. Accordingly, Applicants respectfully request the withdrawal of this rejection.

In conclusion, the Applicants submit that all pending claims are in condition for allowance and request an early indication of the same. Should the Examiner have any questions that may be addressed through a teleconference, the Examiner is invited to contact the undersigned attorney.

The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Account No. 50-4992.

Date: September 3, 2009

/Thomas S. Kim/
Thomas S. Kim
Registration No. 51,009

VGX Pharmaceuticals, LLC
450 Sentry Parkway
Blue Bell, PA 19422
Telephone: (267) 440-4203
Facsimile: (267) 440-4242